



DEPARTMENT OF COMMERCE

International Trade Administration

[C-552-829]

Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of passenger vehicle and light truck tires (passenger tires) from the Socialist Republic of Vietnam (Vietnam).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Michael Romani or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0198 or (202) 482-0410, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 10, 2020, Commerce published the *Preliminary Determination* in the *Federal Register*.¹ In addition to the Government of Vietnam (GOV), the mandatory respondents in this investigation are Kumho Tire (Vietnam) Co., Ltd. (KTV) and Sailun (Vietnam) Co., Ltd. (Sailun). In the *Preliminary Determination*, and in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4),

¹ See *Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 71607 (November 10, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

Commerce aligned the final countervailable duty (CVD) determination with the final antidumping duty (AD) determination.²

A summary of the events that occurred since Commerce published the *Preliminary Determination* is found in the Issues and Decision Memorandum.³ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Period of Investigation

The period of investigation is January 1, 2019, through December 31, 2019.

Scope of the Investigation

The products covered by this investigation are passenger tires from Vietnam. For a complete description of the scope of the investigation, *see* Appendix I.

Scope Comments

During the course of this investigation, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments.⁴ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we address in the Final Scope Decision Memorandum.⁵ With the exception of one revision to correct a typographical error, Commerce is not modifying the scope

² See *Preliminary Determination*, 85 FR at 71608.

³ See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See Memorandum, "Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Preliminary Scope Comments Decision Memorandum," dated December 29, 2020 (Preliminary Scope Decision Memorandum).

⁵ See Memorandum, "Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Scope Comments Final Decision Memorandum," dated concurrently with, and hereby adopted by, this notice (Final Scope Decision Memorandum).

language as it appeared in the correction to the preliminary determinations issued in the concurrent AD investigations.⁶ *See* Appendix I for the final scope of the investigation.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.⁷

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties, to which we responded in the Issues and Decision Memorandum, *see* Appendix II of this notice.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁸ For a full description of the methodology underlying this final determination, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

⁶ *See Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Notice of Correction to Preliminary Determinations in Less-Than-Fair-Value Investigations*, 86 FR 7252 (January 27, 2021).

⁷ *See* Commerce’s Letters, dated February 18, 2021; *see also* GOV’s Letter, “Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: GOV’s Verification Questionnaire Response,” dated February 26, 2021; KTVs Letter, “Countervailing Duty Investigation of Passenger Vehicle and Light Truck Tires from Vietnam – Response to February 18 In Lieu of Verification Questionnaire,” dated February 26, 2021; and Sailun’s Letter, “Sailun Verification Questionnaire Response in the Countervailing Duty Investigation of Passenger Vehicle and Light Truck Tires (“PVL”) From Vietnam (C-552-829),” dated February 26, 2021.

⁸ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Based on our review and analysis of the record and the comments received, we made certain changes to the countervailable subsidy rate calculations. For discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 705(c)(5)(A) of the Act provides that in the final determination, Commerce shall determine an all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any rates that are zero, *de minimis*, or based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for KTV and Sailun that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.⁹

Final Determination

We determine the countervailable subsidy rates to be:

Company	Subsidy Rate (percent)
Kumho Tire (Vietnam) Co., Ltd.	7.89
Sailun (Vietnam) Co., Ltd.	6.23
All Others	6.46

⁹ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, "Countervailing Duty Investigation of Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Calculation of All-Others Rate," dated concurrently with this notice.

Disclosure

We intend to disclose the calculations performed in this final determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of the publication of this notice in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to section 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all passenger tires from Vietnam, that were entered, or withdrawn from warehouse, for consumption on or after November 10, 2020, the date of the publication of the *Preliminary Determination* in the *Federal Register*.

In accordance with section 703(d) of the Act, effective March 10, 2021, we instructed CBP to discontinue the suspension of liquidation of all entries, but to continue the suspension of liquidation of all entries between November 10, 2020, through March 9, 2021.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation, and require a cash deposit of estimated countervailable duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all cash deposits will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of passenger tires from Vietnam no later than 45 days after our final

determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding APO

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to the parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: May 21, 2021.

Christian Marsh,
Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this investigation may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P – Identifies a tire intended primarily for service on passenger cars.

LT – Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT – Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a “P” or “LT” prefix, and all tires with an “LT” suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a “P” or “LT” prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that fits passenger cars or light trucks. Sizes that fit passenger cars and light trucks include, but are not limited to, the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim Association Year Book, as updated annually. The scope includes all tires that are of a size that fits passenger cars or light trucks, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

- (1) Racing car tires; such tires do not bear the symbol “DOT” on the sidewall and may be marked with “ZR” in size designation;
- (2) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;
- (3) non-pneumatic tires, such as solid rubber tires;

- (4) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:
 - (a) The size designation and load index combination molded on the tire's sidewall are listed in Table PCT-1R ("T" Type Spare Tires for Temporary Use on Passenger Vehicles) or PCT-1B ("T" Type Diagonal (Bias) Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,
 - (b) the designation "T" is molded into the tire's sidewall as part of the size designation, and,
 - (c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a "M" rating;
- (5) tires designed and marketed exclusively as temporary use spare tires for light trucks which, in addition, exhibit each of the following physical characteristics:
 - (a) the tires have a 265/70R17, 255/80R17, 265/70R16, 245/70R17, 245/75R17, 245/70R18, or 265/70R18 size designation;
 - (b) "Temporary Use Only" or "Spare" is molded into the tire's sidewall;
 - (c) the tread depth of the tire is no greater than 6.2 mm; and
 - (d) Uniform Tire Quality Grade Standards ("UTQG") ratings are not molded into the tire's sidewall with the exception of 265/70R17 and 255/80R17 which may have UTQG molded on the tire sidewall;
- (6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:
 - (a) The size designation molded on the tire's sidewall is listed in the ST sections of the Tire and Rim Association Year Book,
 - (b) the designation "ST" is molded into the tire's sidewall as part of the size designation,
 - (c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is "For Trailer Service Only" or "For Trailer Use Only",
 - (d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and
 - (e) either
 - (i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an "M" rating; or
 - (ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either

- (1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book; or
 - (2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;
- (7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:
- (a) The size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,
 - (b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not For Highway Service" or "Not for Highway Use",
 - (c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a "G" rating, and
 - (d) the tire features a recognizable off-road tread design;
- (8) Tires designed and marketed for off-road use as all-terrain-vehicle (ATV) tires or utility-terrain-vehicle (UTV) tires, and which, in addition, exhibit each of the following characteristics:
- (a) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 87 MPH or an "N" rating, and
 - (b) both of the following physical characteristics are satisfied:
 - (i) The size designation and load index combination molded on the tire's sidewall does not match any of those listed in the passenger car or light truck sections of the Tire and Rim Association Year Book, and
 - (ii) The size designation and load index combination molded on the tire's sidewall matches any of the following size designation (American standard or metric) and load index combinations:

American Standard Size	Metric Size	Load Index
26x10R12	254/70R/12	72
27x10R14	254/65R/14	73
28x10R14	254/70R/14	75
28x10R14	254/70R/14	86
30X10R14	254/80R/14	79

30x10R15	254/75R/15	78
30x10R14	254/80R/14	90
31x10R14	254/85R/14	81
32x10R14	254/90R/14	95
32x10R15	254/85R/15	83
32x10R15	254/85R/15	94
33x10R15	254/90R/15	86
33x10R15	254/90R/15	95
35x9.50R15	241/105R/15	82
35x10R15	254/100R/15	97

The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.90.10.10, 4011.90.10.50, 4011.90.20.10, 4011.90.20.50, 4011.90.80.10, 4011.90.80.50, 8708.70.45.30, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Final Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Subsidies Valuation Information
- V. Analysis of Programs
- VI. Analysis of Comments

- Comment 1: Whether International and U.S. Law Permits Commerce to Countervail Exchanges of Undervalued Currency
- Comment 2: Whether Commerce's Promulgation of the Currency Regulations in the Absence of Legislative Authority is Outside its Legal Authority
- Comment 3: Whether an Exchange of Currency Constitutes a Financial Contribution
- Comment 4: Whether the Currency Program Is Specific
- Comment 5: Whether the Vietnamese Dong Was Undervalued During the POI
- Comment 6: Whether Countervailing Currency Exchanges Results in a Double Remedy
- Comment 7: How the Subsidy Rate for the Currency Program Should Be Calculated
- Comment 8: Whether Import Duty Exemptions for Raw Materials Are Countervailable
- Comment 9: Whether Commerce Should Revise the Benchmark for the Provision of Natural Rubber to KTV
- Comment 10: Whether KTV's Preferential Rent is Countervailable
- Comment 11: Whether Sailun Used the Program on Preferential Rent
- Comment 12: Whether Commerce Should Revise the Benchmark for Preferential Rent for KTV

- VII. Recommendation